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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 04-40129 SBA
)	
Plaintiff,)	STIPULATION AND ORDER
)	REGARDING SENTENCE REDUCTION
v.)	UNDER U.S.S.G. AMENDMENT 706 (AS
)	AMENDED BY 711)
SHAWN VASQUEZ,)	
)	
Defendant.)	
)	

IT IS HEREBY STIPULATED AND AGREED, by and between the parties acting
through their respective counsel, that:

1. The Court may make its own motion for a modification of the defendant's
sentence pursuant to 18 U.S.C. § 3582(c)(2).
2. Defendant's original guideline calculation was as follows:

Total Offense Level:	25
Criminal History Category:	III
Guideline Range:	70-87
Mandatory Minimum:	60

STIPULATION AND [PROPOSED] ORDER RE REDUCTION OF SENTENCE
CR 04-40129 SBA

3. Defendant was sentenced to 70 months in prison on March 7, 2006.
4. Defendant's current projected release date is November 26, 2010.
5. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. § 3582(c), U.S.S.G. §1B1.10(c), and Amendment 706 of the United States Sentencing Commission Guidelines Manual.
6. Defendant's revised Guideline calculation is as follows:
Total Offense Level: 23
Criminal History Category: III
Guideline range: 57 to 71 months
7. The parties have no reason to dispute the Reduction of Sentence Report prepared for the Court by the probation office.
8. Based upon the foregoing, the parties hereby stipulate that a sentence of 60 months is appropriate in this matter.
9. The parties further stipulate that all other aspects of the original judgment order including the length of the term of supervised release, all conditions of supervision, fines, restitution, and special assessment remain as previously imposed.
10. Defendant stipulates that he waives and does not request a hearing in this matter pursuant to Federal Rule of Criminal Procedure 43, 18 U.S.C. § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9th Cir. 2007).
11. Defendant waives his right to appeal the district court's sentence.

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12. Accordingly, the parties agree and stipulate that an amended judgment may be entered by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and U.S.S.G. § 1B1.10(c), Amendment 706 of the United States Sentencing Commission Guidelines Manual.

IT IS SO STIPULATED.

Date: 10/24/2008

/s/
CAMELLIA BARAY
Attorney for Defendant Shawn Vasquez

Date: 10/24/2008

JOSEPH P. RUSSONIELLO
United States Attorney

/s/
KESLIE STEWART
Assistant United States Attorney

ORDER

Based on the above stipulation, the Court hereby ORDERS the following:

1. The Court is making its own motion for a modification of the defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2);
2. **The original Judgment in the above-captioned case is AMENDED to impose a term of imprisonment of 60 months.** All other aspects of the original judgment, including the length of the term of supervised release, all conditions of supervision, fines, restitution, and special assessment remain as previously imposed.
3. Defendant's original Guideline calculation was as follows:

Total Offense Level:	25
Criminal History Category:	III
Guideline Range:	70-87

Mandatory Minimum: 60

Sentence Imposed: 70 months

4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. § 3582(c), U.S.S.G. § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission Guidelines Manual;

5. Defendant's revised Guideline calculation is as follows:

Total Offense Level: 23

Criminal History Category: III

Guideline Range: 57 to 71 months

6. Defendant has waived his right to a hearing in the matter pursuant to Federal Rule of Criminal Procedure 43, 18 U.S.C. § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9th Cir. 2007).

7. Defendant has waived his right to appeal the sentence imposed by this Order.

Date: 5/22/09


HONORABLE SAUNDRA B. ARMSTRONG
UNITED STATES DISTRICT JUDGE